

Hon. Karen L. Strombom

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

DONALD L. PATE,

Plaintiffs,

v.

KITSAP COUNTY, a political
subdivision of the State of Washington;
TERRY K. COUSINS, individually and
in her official capacity as a Kitsap
County Corrections Officer; and
STATE OF WASHINGTON

Defendants.

NO. C07-5331KLS

ORDER GRANTING DEFENDANT'S
SUMMARY JUDGMENT MOTION

THIS MATTER coming on for hearing on the motion of defendant State of Washington for summary judgment, said defendant appearing by Robert M. McKenna, Attorney General, and Glen A. Anderson, Senior Counsel; plaintiff filing no opposition to the State's motion; and Kitsap County, appearing by Russell D. Hauge, Prosecuting Attorney, and Ione S. George and Martin F. Muench, Senior Deputy Prosecuting Attorneys, and the Court having considered the records and filed herein, and:

1. Defendant's Motion and Memorandum in Support of Motion for Summary Judgment (Dkt. #14);
2. Declaration of Glen A. Anderson, with attachments (Dkt. #15);

3. Kitsap County's Response to State of Washington's Motion for Summary Judgment (Dkt. #18); and

4. Defendant State of Washington's Reply to Kitsap County's Response to State of Washington's Motion for Summary Judgment (Dkt. #19);


and being fully advised; now, therefore

IT IS HEREBY ORDERED that the Defendant's Motion for Summary Judgment dismissing claims against the State is GRANTED (Dkt. #14). Plaintiff's 42 U.S.C. §1983 claim against the State of Washington is dismissed with prejudice. Plaintiff's remaining claims against the State of Washington are dismissed without prejudice.

IT IS FURTHER ORDERED that Kitsap County's cross-claim against the State of Washington is dismissed without prejudice.

This Court notes that the plaintiff did not oppose the State’s motion. In addition, Kitsap County acknowledged the immunity provided the State under the Eleventh Amendment. Inasmuch as the immunity deprives the federal court of the power to decide claims against the State, the balance of the claims have been dismissed without prejudice.

DATED this 15th day of October, 2007.


Karen L. Strombom
United States Magistrate Judge

Presented by:

ROBERT M. MCKENNA
Attorney General

GLEN A. ANDERSON, WSBA No. 17490
Senior Counsel
Attorneys for Defendant State of Washington

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